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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JAMES ALGER,)	Case No. 22-7747
)	
Plaintiff,)	<i>Civil Rights</i>
)	
vs.)	COMPLAINT FOR
)	INJUNCTIVE AND
MARRIOTT INTERNATIONAL,)	DECLARATORY RELIEF AND
INC.; LAX HOTEL VENTURES,)	DAMAGES
LLC; NEW WYNN LI, LP;)	
UPTOWN LAX LLC,)	
PERSEVERANCE LAX LLC,)	REQUEST FOR JURY TRIAL
)	
Defendants.)	

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF AND
DAMAGES

1 JAMES ALGER (“Plaintiff”) hereby complains of defendants MARRIOTT
2 INTERNATIONAL, INC; LAX HOTEL VENTURES, LLC; NEW WYNN LI,
3 LP; UPTOWN LAX LLC, PERSEVERANCE LAX LLC, (collectively,
4 “Defendants”) as follows:

5 **INTRODUCTION**

6 1. This is a civil rights action involving the lack of disabled access to the
7 building, structure, facility, complex, property, land, development, and/or business
8 complex known as “Four Points by Sheraton Los Angeles International Airport” at
9 or about 9750 Airport Blvd, Los Angeles, CA 90045 (hereinafter “Four Points”).

10 2. Plaintiff is a person with physical disabilities who relies on a wheelchair or
11 scooter for mobility.

12 3. Defendants’ lack of accessible facilities denies “full and equal” access
13 required by Title III of the Americans with Disabilities Act of 1990 and
14 supplementary California civil rights laws. As a result, Plaintiff has been
15 continuously denied full and equal access to Four Points and has been embarrassed
16 and humiliated. Plaintiff seeks damages and injunctive relief requiring provision of
17 access under the Americans with Disabilities Act of 1990 (“ADA”) and injunctive
18 relief for full and equal access and statutory damages under California law.
19 Plaintiff also seeks declaratory relief and recovery of reasonable statutory attorney
20 fees, litigation expenses and costs under federal and state law.

21 **JURISDICTION AND VENUE**

22 4. This Court has jurisdiction of this action pursuant to 28 USC § 1331 for
23 violations of the ADA, 42 USC §§ 12101 *et seq.* Pursuant to supplemental
24 jurisdiction, attendant and related causes of action, arising from the same facts, are
25 also brought under California law, including, but not limited to, violations of
26 Health and Safety Code and the Unruh Civil Rights Act.

27 5. Venue is proper in this court pursuant to 28 USC § 1391(b) and is founded

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1 on the fact that the real property which is the subject of this action is located in this
2 District and that Plaintiff's causes of action arose in this District.

3 **PARTIES**

4 6. Plaintiff JAMES ALGER ("Plaintiff") is and at all times relevant herein
5 was, a qualified individual with a physical disability. Plaintiff suffers from
6 Charcot-Marie-Tooth disease, a disorder that causes damage to the peripheral
7 nerves and atrophies muscles. A work injury caused this disease to decline rapidly.
8 As a result of his disability, Plaintiff has severe difficulty walking, as well as
9 difficulty with fine motor skills. Plaintiff relies on a wheelchair or scooter to
10 ambulate outside of the home and is able to drive a vehicle equipped with hand
11 controls. Plaintiff requires assistance with activities of daily living such as
12 dressing, grooming, loading his scooter in and out of vehicle if going to a remote
13 location, etc. While Plaintiff does not require constant 24-hour care, he does
14 require overnight care. Plaintiff utilizes a noninvasive ventilator due to weakened
15 respiratory muscles that affect his ability to adequately and safely breathe while
16 lying down and requires assistance in setting it up, placing it on and taking it off.
17 That assistance is generally provided by family members or friends of the family.
18 Plaintiff's level of disability is such that once he is up and dressed for the day, he
19 can proceed home which is equipped for his disability with little or no assistance
20 needed until it is time to get ready for bed that night. Plaintiff possesses a disabled
21 parking placard issued by the State of California and is a resident of Porter Ranch,
22 California, about 45 miles from Four Points.

23 7. Defendants MARRIOTT INTERNATIONAL, INC.; LAX HOTEL
24 VENTURES, LLC; NEW WYNN LI, LP; UPTOWN LAX LLC,
25 PERSEVERANCE LAX LLC, are and were the owners, operators, lessors and/or
26 lessees of the subject business, property, and buildings at all times relevant to this
27 Complaint.

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8. Defendants failed to ensure that the accommodations, goods, services, and opportunities were accessible to Plaintiff and other members of the public who have physical disabilities. Defendants' failure to comply with Federal and State access laws proximately caused the violations and ongoing violations and damages to plaintiff complained of herein.

FACTUAL ALLEGATIONS

9. Defendants have discriminated against Plaintiff because Four Points' facilities and policies do not comply with the requirements of the ADA, the Unruh Act, the California Health and Safety Cod, and the Disabled Persons Act. Defendants have failed and refuses to provide full and equal access to the services, privileges, benefits, and advantages that they provide to persons without disabilities at Four Points.

10. Four Points and its facilities, including but not limited to its entrances/exits, parking, interior paths of travel, transaction counters, restrooms, and pool are each a "public accommodation" and part of a "business establishment," subject to the requirements of § 301(7) of the ADA (42 U.S.C. § 12181(7) and of California Civil Code §§ 51 *et seq.*

11. On information and belief, Four Points and its facilities have, since January 26, 1993, undergone construction, alterations, structural repairs, and/or additions, subjecting the facility to disabled access requirements of § 303 of the ADA (42 U.S.C. § 12183). Such facilities constructed or altered since 1982 are also subject to "Title 24," the California State Architect's Regulations. Irrespective of Four Points' construction and alteration history, removal of the access barriers at the subject premises are subject to the "readily achievable" barrier removal requirements of Title III of the ADA.

12. Plaintiff stays at Marriott hotels at least 75 nights a year and is a Titanium member of Marriott, the highest level of elite membership. Plaintiff frequently

1 stays at Marriott branded hotels in the Los Angeles area because Plaintiff's wife
2 typically works from home three days a week and in Gardena twice a week. During
3 the time she works in Gardena Plaintiff still requires assistance with the operation
4 of his noninvasive ventilator at night, and getting dressed, and ready for the day. A
5 friend of the family who frequently assists Plaintiff in Hawthorne, CA. Therefore,
6 out of convenience, Plaintiff tries to get a hotel near their primary place of
7 employment.

8 13. Plaintiff's residential community does not have a lift for the pool or the
9 jacuzzi. Therefore, it is crucial for Plaintiff that whenever staying at hotels, that he
10 has an opportunity to use the pool and/or jacuzzi for his health and enjoyment. Due
11 to his disabilities, Plaintiff cannot safely enter and exit the pool without the use of
12 an accessible pool lift. In Plaintiff's experience, Marriott hotels frequently either
13 do not have a pool lift at all or have a pool lift that is inoperable. About 2 years
14 ago, Plaintiff complained to the Marriott corporate office regarding the prevalent
15 pool lift issue at five different Marriott hotels. While he was promised a response,
16 none came.

17 14. Plaintiff's wife was scheduled to work in Gardena, California on September
18 12, 2022. Therefore, out of convenience to be closer to his wife and friends nearby,
19 Plaintiff, on September 11, 2022, made a reservation for a two-queen accessible
20 room through the Marriot app for a one-night stay at Four Points from September
21 11, 2022, to September 12, 2022. This was the most convenient hotel for Plaintiff
22 when considering the price and location.

23 15. Plaintiff arrived at Four Points in the afternoon on September 11, 2022 and
24 noticed that the designated accessible parking in the front had been removed and
25 the front parking that remained was blocked off. Although there appeared to be a
26 path of travel from what used to be designated accessible parking, this path was not
27 marked and was inaccessible to wheelchair users.

1 16. Plaintiff drove up to the passenger drop off location but had difficulty
2 entering the location because the sole curb-cut was blocked by an SUV. After
3 waiting for some time, the SUV left, and Plaintiff was able to proceed to the check-
4 in counter. The check-in counter, however, was not accessible to Plaintiff because
5 it was too high, preventing him from reviewing the documents. Consequently,
6 Plaintiff had to pull up next to the check-in counter rather than straight on. Plaintiff
7 was told by the staff member at the check-in counter that the back parking lot had
8 accessible parking spaces.

9 17. Once he completed the check-in process, Plaintiff went outside, to find the
10 accessible parking spaces. This, however, proved to be difficult and time
11 consuming because there was no signage directing Plaintiff to accessible parking.
12 When he did finally find the designated accessible parking spaces, much to
13 Plaintiff's frustration and disappointment, the spaces were not wheelchair
14 accessible. Namely, the configuration of the designated accessible parking spaces
15 was such that Plaintiff had to roll behind parked cars to reach the entrance, the
16 connection between the ramp and accessible aisle had an elevation exceeding $\frac{1}{4}$
17 inch; and the path from the designated accessible parking spaces was hazardous
18 due to elevations exceeding $\frac{1}{2}$ inch.

19 18. Once Plaintiff finally made it to his suite, he got dressed and went to the
20 hotel swimming pool. Plaintiff found the pool lift laying on the ground and
21 inoperable. He then went to the front desk and complained. The staff gave Plaintiff
22 a remote to operate the pool but the remote also did not work. Another staff
23 member showed up and spent 50 minutes trying to fix the lift. Eventually, the staff
24 member gave up, took the pool lift battery away and never came back.

25 19. Later that evening, Plaintiff tried to access the marketplace store inside of
26 Four Points to purchase food but had difficulty accessing the store because the
27 entrance door was heavy.

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1 20. The next morning, Plaintiff came down to the pool and found that the pool
2 lift was still not working. A staff member at the front desk told Plaintiff that the
3 pool lift is never working.

4 21. Despite his frustrations, Plaintiff could and would stay at the Four Points in
5 the future if it is made accessible to him. He is deterred from returning because
6 Four Points continues to be inaccessible to him. For example, Plaintiff would have
7 stayed at Four Points on October 9, 2022, but chose to stay at another Marriott
8 branded hotel instead.

9 22. On October 12, 2022, Plaintiff returned to Four Points to determine if the
10 pool lift was finally working; the pool lift was still inoperable.

11 23. Before filing this lawsuit, Plaintiffs' legal representative did an informal
12 investigation of Four Points. While he could not make detailed measurements, he
13 determined that Four Points was also inaccessible in multiple other ways,
14 including, but not limited to, the following barriers related to Plaintiff's
15 disabilities:

- 16 • Pool door (when entering the facility) does not appear to have 24"
17 clearance
- 18 • Bathroom in pool area does not have signage at latch side of door (left
19 bathroom)
- 20 • There does not appear to be any accessible tables in pool area
- 21 • Towels in pool area are out of reach (by bathroom doors)
- 22 • Emergency phone in pool area appears to be out of reach
- 23 • Upon information and belief, restaurant area does not have at least 5%
24 accessible seating
- 25 • Upon information and belief, no accessible counter is provided in the
26 restaurant area

- 1 • Access aisle in rear designed accessible parking does not have
- 2 stamped “No Parking” on ground
- 3 • Designated accessible parking is at 45 degrees and does not provide
- 4 18-foot depth
- 5 • Hatched striping in access aisle appears to be over 36" apart
- 6 • Ramp to designated access aisle has standing water on it
- 7 • Upon information and belief, the parking structure does not have any
- 8 accessible parking

9 These barriers to access are listed without prejudice to Plaintiff citing additional
 10 barriers to access after inspection by Plaintiff’s access consultant, per the 9th
 11 Circuit’s standing standards under *Doran v. 7-Eleven, Inc.* 524 F.3d 1034 (9th Cir.
 12 2008), *Chapman v. Pier One Imports (USA), Inc.*, 631 F.3d 939 (9th Cir. 2011).

13 24. Plaintiff alleges that it would be a futile gesture to provide notices of
 14 violations relating to his continued and/or attempted visits, which are certain to
 15 occur on a regular basis following the filing of this Complaint. Therefore, Plaintiff
 16 will seek to supplement this Complaint at the time of trial as to subsequent events,
 17 according to proof.

18 25. Defendants knew, or should have known, that these elements and policies
 19 rendered Four Points inaccessible, violate state and federal law, and interfere with
 20 and/or deny access to individuals with similar mobility disabilities. Upon
 21 information and belief, Defendants have the financial resources to remove these
 22 barriers and make Four Points accessible to the physically disabled. To date,
 23 however, Defendants refuse to remove those barriers or to provide full and equal
 24 access to Four Points.

25 26. As a result of Defendants’ actions and failures to act and failure to provide
 26 disabled access, Plaintiff suffered a denial of his civil rights emotional discomfort,
 27 and denial of rights to full and equal access to public accommodations, all to his

1 general, special, and statutory damages. On each such denial of access, Plaintiff
 2 has encountered barriers to full and equal access which have caused him difficulty,
 3 discomfort, and embarrassment. Plaintiff has been required to seek legal assistance,
 4 and seeks statutory attorney fees, litigation expenses, and costs, pursuant to federal
 5 and state law.

6 27. Plaintiff's goal in this suit is a positive one: to make Four Points fully
 7 accessible to persons with similar mobility disabilities.

8 **FIRST CLAIM:**

9 **VIOLATION OF THE ADA, TITLE III**

10 **[42 USC §§ 12101 et seq.]**

11 28. Plaintiff repleads and incorporates by reference, as if fully set forth
 12 hereafter, the allegations contained in all paragraphs of this Complaint and
 13 incorporates them herein as if separately repled.

14 29. Plaintiff was at all times relevant herein a qualified individual with a
 15 disability as defined by the ADA, as he has impairments that substantially limit
 16 one or more major life activities.

17 30. Plaintiff has reasonable grounds for believing he will be subjected to
 18 discrimination each time that he may attempt to access and use the subject
 19 facilities.

20 31. The subject property and facility are among the "private entities," which are
 21 considered "public accommodations" for purposes of Title III of the ADA. 42
 22 U.S.C. § 12181(7).

23 32. The acts and omissions of Defendants set forth herein were in violation of
 24 Plaintiff's rights under the ADA and the regulations promulgated thereunder, 28
 25 C.F.R. Part 36, *et seq.* For example, Section 242.2 of the 2010 ADA Standards for
 26 Accessible Designs provides "242.2 Swimming Pools. At least two accessible
 27 means of entry shall be provided for swimming pools. Accessible means of entry

1 shall be swimming pool lifts complying with 1009.2; sloped entries complying
2 with 1009.3 . . . 242.4 Spas. At least one accessible means of entry shall be
3 provided for spas. Accessible means of entry shall comply with
4 swimming pool lifts complying with 1009.2.” Defendants have failed to comply
5 with this regulation.

6 33. Plaintiff alleges on information and belief that Four Points was designed and
7 constructed (or both) after January 26, 1993 -- independently triggering access
8 requirements under Title III of the ADA. Here, Defendants violated the ADA by
9 designing and/or constructing Four Points in a manner that did not comply with
10 federal and state disability access standards even though it was practicable to do
11 so.

12 34. The removal of each of the barriers complained of by Plaintiff as herein
13 alleged, were at all times herein mentioned “readily achievable” under the
14 standards §§12181 and 12182 of the ADA.

15 35. As noted throughout this Complaint, removal of each and every one of the
16 architectural barriers complained of herein was also required under California law.

17 36. Plaintiff alleges on information and belief that Four Points was modified
18 after January 26, 1993. Any alterations, structural repairs, or additions since
19 January 26, 1993, have independently triggered requirements for removal of
20 barriers to access for disabled persons per § 12183 of the ADA.

21 37. Defendants have discriminated against Plaintiff in violation of Title III of the
22 ADA by: (a) providing benefits that are unequal to that afforded to people without
23 disabilities; (b) failing to make reasonable modifications in policies, practices, or
24 procedures when such modifications are necessary to afford (and would not
25 fundamentally alter the nature of) the goods, services, facilities, privileges,
26 advantages, or accommodations of Four Points to individuals with disabilities; (c)
27 failing to remove architectural barriers that are structural in nature in existing

1 facilities where such removal is readily achievable; and (d) where Defendants can
2 demonstrate the removal of architectural barriers is not readily achievable, failing
3 to make the goods, services, facilities, privileges, advantages, or accommodations
4 of Four Points available through alternative methods if such methods are readily
5 achievable. On information and belief, as of the date of Plaintiff's most recent visit
6 to Four Points and as of the filing of this Complaint, the subject premises have
7 denied and continue to deny full and equal access to Plaintiff and to other similarly
8 mobility disabled persons in other respects, which violate Plaintiff's rights to full
9 and equal access and which discriminate against him on the basis of his disability,
10 thus wrongfully denying him the full and equal enjoyment of the goods, services,
11 facilities, privileges, advantages and accommodations, in violation of §§ 12182 and
12 12183 of the ADA. The ability to enter and exit Four Points (including park in the
13 designated accessible parking stalls) with ease and to utilize the swimming pool is
14 a fundamental necessity. Without this ability, Plaintiff is unable to available
15 himself of the goods and services offered at Four Points on a full and equal basis.
16 Therefore, the benefits of creating access, including, but not limited to, providing
17 access including to the swimming pool, does not exceed the costs of readily
18 achievable barrier removal. These costs are fundamental to doing business, like
19 any other essential function of operating a public accommodation. It is thus readily
20 achievable to remove these barriers. Furthermore, these are the types of barriers
21 identified by the Department of Justice as presumably readily achievable to
22 remove, and, in fact, these barriers are readily achievable to remove.

23 38. Pursuant to the ADA, 42 U.S.C. 12188 *et seq.*, Plaintiff is entitled to the
24 remedies and procedures set forth in § 204(a) of the Civil Rights Act of 1964, 42
25 U.S.C. 2000(a)-3(a), as he is being subjected to discrimination based on disability
26 in violation of the ADA or has reasonable grounds for believing that he is about to
27 be subjected to discrimination.

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39. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the Civil Rights Act of 1964, 42 USC 2000(a)-3(a), and pursuant to Federal Regulations adopted

WHEREFORE, Plaintiff requests relief as outlined below.

SECOND CLAIM:

VIOLATION OF THE UNRUH CIVIL RIGHTS ACT

[Cal. Civil Code §§ 51 et seq.]

40. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all paragraphs of this Complaint and incorporates them herein by reference as if separately replied hereafter.

41. Four Points is a business establishment within the meaning of the Unruh Act.

42. Defendants are the owner and/or operators of a business establishment.

43. Defendants violated the Unruh Act by their acts and omissions, as follows:

- a. Failure to construct and/or alter Four Points in compliance with state building code and state architectural requirements;
- b. Failure to remove known barriers to access at Four Points;
- c. Failure to modify policies and procedures as necessary to ensure Plaintiff full and equal access to the accommodations, advantages, facilities, privileges, and/or services of Four Points; and
- d. Violation of the ADA, a violation of which is a violation of the Unruh Act. Cal. Civil Code § 51(f).

44. Plaintiff has experienced barriers to access at Four Points, all of which have caused him major difficulty, discomfort, and embarrassment. Plaintiff suffered mental and emotional damages, including statutory and compensatory damages, according to proof.

45. Further, on information and belief, Four Points and its respective premises

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1 are also illegally inaccessible in multiple other respects. As noted above, the
2 barriers to access described in this Complaint are listed without prejudice to
3 Plaintiff citing additional barriers to access after inspection by Plaintiff's access
4 consultant(s)/expert(s).

5 46. These barriers to access render Four Points and its premises inaccessible to
6 and unusable by persons with mobility disabilities. All facilities must be brought
7 into compliance with all applicable federal and state code requirements, according
8 to proof. Plaintiff prays for leave to amend this Complaint, if necessary, to obtain
9 full injunctive relief as to those barriers that limit or deny full and equal access to
10 persons with similar mobility disabilities.

11 47. Each violation of the ADA constitutes a separate and distinct violation of
12 California Civil Code § 51(f), thus independently justifying an award of damages
13 and injunctive relief pursuant to California law, including but not limited to Civil
14 Code § 52(a).

15 48. With respect to Defendants' violations of the Unruh Act that are not
16 predicated on violations of the ADA, Defendants' behavior was intentional: they
17 were aware of and/or were made aware of their duties to remove barriers that
18 prevent persons with mobility disabilities like Plaintiff from obtaining full and
19 equal access to Four Points. Defendants' discriminatory practices and/or policies
20 that deny full enjoyment of Four Points to persons with physical disabilities
21 indicate actual and implied malice and conscious disregard for the rights of
22 Plaintiff and other similarly disabled individuals. Accordingly, Defendants have
23 engaged in willful affirmative misconduct in violating the Unruh Act.

24 49. On information and belief, the access features of Four Points have not been
25 improved since Plaintiff's visits there. Plaintiff's injuries are ongoing so long as
26 Defendants do not modify their policies and procedures and provide fully
27

1 accessible facilities for Plaintiff and other persons with similar mobility
2 disabilities.

3 50. At all times herein mentioned, Defendants knew, or in the exercise of
4 reasonable diligence should have known, that his barriers, policies and practices at
5 its facilities violated disabled access requirements and standards and had a
6 discriminatory impact upon Plaintiff and upon other persons with similar mobility
7 disabilities, but Defendants failed to rectify the violations, and presently continues
8 a course of conduct in maintaining barriers that discriminate against Plaintiff and
9 similarly situated disabled persons.

10 WHEREFORE, Plaintiff requests relief as outlined below.

11 **THIRD CLAIM:**

12 **VIOLATION OF THE CALIFORNIA HEALTH AND SAFETY CODE**

13 **[Cal. Health and Safety Code §§19955 *et seq.*]**

14 51. Plaintiff repleads and incorporates by reference, as if fully set forth
15 hereafter, the allegations contained in all paragraphs of this Complaint and
16 incorporates them herein as if separately repelled.

17 52. Health & Safety Code §19955 provides in pertinent part:

18 The purpose of this part is to ensure that public accommodations or
19 facilities constructed in this state with private funds adhere to the
20 provisions of Chapter 7 (commencing with Sec. 4450) of Division 5
21 of Title 1 of the Government Code. For the purposes of this part
22 “public accommodation or facilities” means a building, structure,
23 facility, complex, or improved area which is used by the general
24 public and shall include auditoriums, hospitals, theaters, restaurants,
25 hotels, motels, stadiums, and convention centers. When sanitary
facilities are made available for the public, clients or employees in
such accommodations or facilities, they shall be made available for
the handicapped.

26 53. Health & Safety Code §19956, which appears in the same chapter as
27 §19955, provides in pertinent part, “accommodations constructed in this state

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1 shall conform to the provisions of Chapter 7 (commencing with Sec. 4450)
2 of Division 5 of Title 1 of the Government Code” Health & Safety Code
3 §19956 was operative July 1, 1970 and is applicable to all public
4 accommodations constructed or altered after that date.

5 54. On information and belief, portions of Four Points and/or of the
6 building(s) were constructed and/or altered after July 1, 1970, and substantial
7 portions of Four Points and/or the building(s) had alterations, structural
8 repairs, and/or additions made to such public accommodations after July 1,
9 1970, thereby requiring Four Points to be subject to the requirements of Part
10 5.5, §19955, *et seq.*, of the Health & Safety Code upon such alteration,
11 structural repairs or additions per Health & Safety Code §19959.

12 55. Pursuant to the authority delegated by Government Code §4450, *et*
13 *seq.*, the State Architect promulgated regulations for the enforcement of these
14 provisions. Effective July 1, 1982, Title 24 of the California Building
15 Standards Code adopted the California State Architect’s Regulations and
16 these regulations must be complied with as to any alterations and/or
17 modifications of Four Points and/or the building(s) occurring after that date.
18 Construction changes occurring prior to this date but after July 1, 1970
19 triggered access requirements pursuant to the “ASA” requirements, the
20 American Standards Association Specifications, A117.1-1961.

21 56. On information and belief, at the time of the construction and
22 modification of said building, all buildings and facilities covered were
23 required to conform to each of the standards and specifications described in
24 the American Standards Association Specifications and/or those contained in
25 the California Building Code.

26 57. Four Points is a “public-accommodations or facilities” within the
27 meaning of Health & Safety Code §19955, *et seq.*

1 58. As a result of the actions and failure to act of Defendants, and as a
2 result of the failure to provide proper and legally accessible public facilities,
3 Plaintiff was denied Plaintiff's right to full and equal access to public
4 facilities and suffered a loss of civil rights and rights as a person with physical
5 disabilities to full and equal access to public facilities.

6 WHEREFORE, Plaintiff requests relief as outlined below.
7

8 59. Plaintiff repleads and incorporates by reference, as if fully set forth
9 hereafter, the allegations contained in all paragraphs of this Complaint and
10 incorporates them herein as if separately repled.

11 60. Four Points is a place of public accommodation and/or places to which
12 the general public is invited and, as such, they are obligated to comply with
13 the provisions of the California Disabled Persons Act ("CDPA"), California
14 Civil Code § 54 *et seq.*

15 61. The CDPA guarantees, inter alia, that persons with disabilities have
16 the same right as the general public to the full and free use of the streets,
17 highways, sidewalks, walkways, public buildings, public facilities, and other
18 public places. California Civil Code § 54.

19 62. The CDPA also guarantees, inter alia, that persons with disabilities are
20 entitled to full and equal access, as other members of the general public, to
21 accommodations, advantages, facilities, and privileges of covered entities.
22 California Civil Code § 54.1(a) (1).

23 63. The CDPA also provides that a violation of the ADA is *a per se*
24 violation of CDPA, California Civil Code § 54.1(d).

25 64. Defendants have violated the CDPA by, inter alia, denying and/or
26 interfering with Plaintiff right to full and equal access as other members of
27 the general public to the accommodations, advantages, and its related

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1 facilities due to his disability.

2 WHEREFORE, Plaintiff requests relief as outlined below.

3 **PRAYER FOR RELIEF:**

4 1. Plaintiff has no adequate remedy at law to redress the wrongs suffered as set
5 forth in this Complaint. Plaintiff has suffered and will continue to suffer irreparable
6 injury as a result of the unlawful acts, omissions, policies, and practices of
7 Defendants as alleged herein, unless Plaintiff is granted the relief he requests.
8 Plaintiff and Defendants have an actual controversy and opposing legal positions
9 as to Defendants' violations of the laws of the United States and the State of
10 California. The need for relief is critical because the rights at issue are paramount
11 under the laws of the United States and the State of California.

12 2. Plaintiff requests a declaratory judgment that Defendants' actions,
13 omissions, and failures -- including but limited to: failing to remove known
14 architectural barriers at Four Points so as to make the facilities "accessible to and
15 useable by" mobility disabled persons; failing to construct and/or alter Four Points
16 in compliance with federal access standards, state building code, and state
17 architectural requirements; and failing to make reasonable modifications in policy
18 and practice for Plaintiff and other persons with similar mobility disabilities.

19 3. Plaintiff requests that the Court issue an order enjoining Defendants, their
20 agents, officials, employees, and all persons and entities acting in concert with
21 them:¹

- 22 a. From continuing the unlawful acts, conditions, and practices described
23 in this Complaint;
- 24 b. To provide reasonable accommodation for persons with disabilities in
25 all its programs, services, and activities at Four Points;
- 26

27 ¹ Plaintiff does not seek injunctive relief under Cal. Civil Code section 55.

- 1 c. To ensure that persons with disabilities are not denied the benefits of,
- 2 or participation in, programs, services, and activities at Four Points;
- 3 d. To modify the above-described facilities to provide full and equal
- 4 access to persons with mobility disabilities, including without
- 5 limitation, the removal of all barriers to access where “readily
- 6 achievable;”
- 7 e. To maintain such accessible facilities once they are provided;
- 8 f. To train Defendants’ employees and agents in how to accommodate
- 9 the rights and needs of physically disabled persons at Four Points;
- 10 g. To implement nondiscriminatory protocols, policies, and practices for
- 11 accommodating persons with mobility disabilities at Four Points.
- 12 4. Plaintiff requests that the Court retain jurisdiction over Defendants until the
- 13 Court is satisfied that Defendants’ unlawful policies, practices, acts and omissions,
- 14 and maintenance of inaccessible public facilities as complained of herein no longer
- 15 occur, and cannot recur;
- 16 5. Plaintiff requests all appropriate damages, including but not limited to
- 17 statutory, compensatory, and treble damages in an amount within the jurisdiction
- 18 of the Court, all according to proof;
- 19 6. Plaintiff requests all reasonable statutory attorney fees, litigation expenses,
- 20 and costs of this proceeding as provided by law, including but not limited to the
- 21 ADA, 42 U.S.C. § 12205; the Unruh Act, California Civil Code § 52; and “public
- 22 interest” attorney fees, litigation expenses and costs pursuant to the provisions of
- 23 California Code of Civil Procedure § 1021.5.
- 24 7. Plaintiff requests prejudgment interest pursuant to California Civil Code §
- 25 3291;
- 26 8. Plaintiff requests interest on monetary awards as permitted by law; and
- 27 9. Plaintiff requests such other and further relief as this Court may deem just

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1 and proper.
2
3

4 Date: October 24, 2022

REIN & CLEFTON
ALLACCESS LAW GROUP

6
7 /s/ Irakli Karbelashvili
8 By IRAKLI KARBELASHVILI, Esq.
9 Attorney for Plaintiff
JAMES ALGER

10
11 **JURY DEMAND**

12 Plaintiffs hereby demand a trial by jury for all claims for which a jury is
13 permitted.
14

15 Date: October 24, 2022

REIN & CLEFTON
ALLACCESS LAW GROUP

17
18 /s/ Irakli Karbelashvili
19 By IRAKLI KARBELASHVILI, Esq.
20 Attorney for Plaintiff
JAMES ALGER